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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/924,497	08/27/97	SOKOLOV	0 OLE-001C3

EXAMINER

B5M1/0202

ATTN THOMAS J ENGELLENNER
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ART UNIT	PAPER NUMBER
~~CHURCH, C~~ 2506	50

DATE MAILED: ~~02/02/98~~ mailed 2-3-98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 29-42, 44, 45 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☒ Claim(s) 29-42, 44, 45 is/are rejected.
☐ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.
☐ received in Application No. (Series Code/Serial Number) _____.
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of Reference Cited, PTO-892
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
☐ Interview Summary, PTO-413
☐ Notice of Draftperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

* U.S. GPO: 1996-421-632/40206

Claims 29-32 and 45 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Lines 10-15 of claim 29 and 7-12 of claim 45 are not meaningful since no means for moving the grid are recited. In claim 45 there is no antecedent basis for "said end surfaces".

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33, 34 and 44 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Caldwell.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same

person.

Claims 29-31, 36 and 45 are rejected under 35 U.S.C. § 103 as being unpatentable over Caldwell. Caldwell teaches a reciprocating antiscatter grid comprising a frame 28 and cells formed by x-ray opaque partitions 29 which are angled with respect to the sides of the grid and direction of motion so as to eliminate shadows of the partitions in the final image and which may either be parallel to one another or focussed on the x-ray source. See lines 27-35 of page 2 and 103-108 of page 3. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Caldwell frame with an x-ray absorbing covering in order to eliminate x-ray scatter therefrom.

Claims 37-39 and 41 are rejected under 35 U.S.C. § 103 as being unpatentable over Caldwell in view of Millenaar. Caldwell fails to teach the use of cover plates on the end faces of his grid, but this was a common practice as shown by Millenaar, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Caldwell grid with such covers to protect it. Furthermore the use of evacuated holes would have been obvious to reduce x-ray absorption.

Claims 32 and 35 are rejected under 35 U.S.C. § 103 as being unpatentable over Albert in view of Caldwell. Albert teaches a method of fabricating an x-ray grid from photosensitive glass (lines 13-51 of column 3 and lines 32 of column 14 to 51 of column 15). While Albert does not explicitly state that the sides of the

throughholes are plated, he does explain that common printed circuit board plating techniques are employed, and it is inherent that such techniques plate through the holes. It would have been obvious to one of ordinary skill in the art at the time the invention was made to shape the Albert cells as taught by Caldwell in order to avoid partition shadows as taught by Caldwell.

Claims 40 and 42 are rejected under 35 U.S.C. § 103 as being unpatentable over Caldwell in view of Mattsson cited by applicant. Caldwell teaches a reciprocating antiscatter grid comprising a frame 28 and cells formed by x-ray opaque partitions 29 which are angled with respect to the sides of the grid and direction of motion so as to eliminate shadows of the partitions in the final image. See lines 27-35 of page 2 and 103-108 of page 3. It would have been obvious to one of ordinary skill in the art at the time the invention was made to fabricate the Caldwell grid with partitions angled as taught by Mattsson in order to maximize performance as explained by Mattsson.

Claims 29-42, 44 and 45 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending application Serial No. 583437. Although the conflicting claims are not identical, they are not patentably distinct from each other.

This is a *provisional* obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. *In re Vogel*, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.78(d).

Any inquiry concerning this communication should be directed to Examiner Church at telephone number (703) 308-4861.

Craig E Church

CRAIG E. CHURCH
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ART UNIT 2506